

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

UNITED STATES OF AMERICA

v.

CRIMINAL ACTION NO. 2:16-00122

DANIEL ORTIZ-RIVERA

MEMORANDUM OPINION AND JUDGMENT ORDER

Pending before the court is defendant Daniel Ortiz Rivera's Pro Se Motion for Reduction in Sentence Based in the Newly Implemented Section 4C1.1 of the USSG. [ECF No. 20], filed on May 10, 2024, wherein defendant requests a two-level reduction of his original offense level, for a "zero-point" offender, which if applicable would reduce his guideline range.

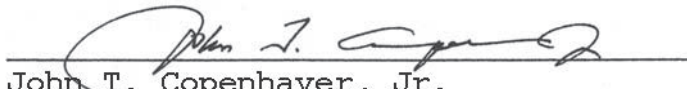
On November 1, 2023, a multi-part criminal history amendment designated as Amendment 821 in Appendix C to the *Guidelines Manual* became effective. Part A of the amendment addresses status points (additional criminal history points added for having committed the instant offense while under a criminal justice sentence), decreasing them by one point for

individuals with seven or more criminal history points (other than status points) and eliminating status points for those with six or fewer criminal history points. Subpart 1 of Part B creates a new §4C1.1 guideline that provides a decrease of two offense levels for "Zero-Point Offenders" (those with no criminal history points) whose offense did not involve specified aggravating factors. Parts A and B, subpart 1 of the criminal history amendment both have retroactive effect.

Inasmuch as the defendant, when sentenced herein on December 8, 2016, was assessed with three criminal history points for a prior conviction in the United States District Court, Wichita, Kansas, (none of which were status points) and inasmuch as the defendant's three criminal history points indicates he is not a Zero-Point Offender, the defendant's pro se Motion for Reduction in Sentence is hereby ORDERED denied.

The Clerk is DIRECTED to send a copy of this Order to Defendant, the United States Attorney, the United States Probation Office, and the United States Marshals.

ENTER: June 3, 2024


John T. Copenhaver, Jr.
Senior United States District Judge